

**FILED**  
MAR 09 2006

*[Signature]*  
CLERK

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
-vs-  
  
ROBERT GEORGE WORSHEK,  
  
Defendant.

CR 04-40015-02

MEMORANDUM OPINION  
AND ORDER

The Court granted Defendant, Robert Worshek's Motion for Judgment of Acquittal as to Counts One and Three of the Superseding Indictment but denied the motion as to Count Four. Worshek appealed the denial of the motion and the Eighth Circuit Court of Appeals reversed, holding that a judgment of acquittal should have been granted on Count Four because it found there was insufficient evidence to support his conviction on Count Four. *United States v. Worshek*, No. 05-1577 (8th Cir. Jan. 4, 2006.). The Eighth Circuit denied the Government's petition for rehearing by the panel on February 24, 2006, Doc. 217, which was filed with this Court on February 27, 2006. The mandate by the Eighth Circuit was issued on March 3, 2006, and this Court received the certified copy of the mandate on Thursday, March 9, 2006. The Court will vacate the Judgment of conviction, Doc. 196, as to Count Four of the Superseding Indictment and a Judgment of Acquittal will be entered on all counts against Defendant Robert Worshek in this case. Accordingly,

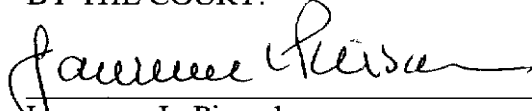
IT IS ORDERED:

1. That the Judgment of conviction as to Count Four of the Superseding Indictment against Defendant Robert Worshek, Doc. 196, filed on February 8, 2005, is hereby vacated.
2. That the Clerk of Court shall prepare a Judgement of Acquittal on Counts One, Three and Four of the Superseding Indictment.

3. That the Bureau of Prisons shall immediately release the Defendant Robert Worshek from custody pursuant to the Judgment of conviction, Doc. 196, filed on February 8, 2005.

Dated this 9<sup>th</sup> day of March, 2006.

BY THE COURT:

  
Lawrence L. Piersol  
United States District Judge

ATTEST:

JOSEPH HAAS, CLERK

BY:

  
(SEAL) DEPUTY